

BOARD OF APPEALS
Diane R. Gordon, Co-Chair
Harry Miller, Co-Chair
Bailey S. Silbert

Town of Brookline

Massachusetts

Town Hall, 1st Floor
333 Washington Street
Brookline, MA 02445-6899
(617) 730-2210 Fax (617) 730-2248
Patrick J. Ward, Secretary

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. BOA060062

Petitioners, Eliot and Linda Kaplan applied to the Board of Appeals to construct an addition to their home at 52 Ackers Avenue.

On 28 September 2006, the Board of Appeals met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed October 26, 2006, at 7:30 p.m. in the Selectmen's Hearing Room on the sixth floor of the Town Hall as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioners, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published October 5 and 12, 2006 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEALS
NOTICE OF HEARING

Pursuant to M.G.L., C.39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioners: Eliot and Linda Kaplan

Location of Premises: **52 Ackers Avenue**

Date of Hearing: **10/26/2006**

Time of Hearing: **07:30 p.m.**

Place of Hearing: **Selectmen's Hearing Room, 6th. Floor**

A public hearing will be held to request relief from the following sections of the Zoning By-Law to construct an addition to an existing single family residence:

Section 5.43; Exceptions to Yard and Setback Regulations, Special Permit Required

Section 5.70: Rear Yard Requirements, Variance Required

Section 8.02.2; Alteration or Extension, Special Permit Required

at 52 Ackers Avenue

Said Premise located in a T-5 (Two family and attached single family) district.

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

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At the time and place specified in the notice, a public hearing was held by this Board. Present at the hearing was Chair, Diane Gordon and Board members Lawrence Kaplan and Enid Starr.

James Shields of Northshore Windows and Siding, 40 Preston Road Somerville, MA 02143, presented the case for the petitioners. On 6 August 1986, Mr. Edward Burgess received variance from Section 5.14 (Lot Frontage) to construct a single family home on a rear lot, the premises known as 48-50, 52 Ackers Avenue; Board of Appeals Case #2779. The plan of record is dated 2/24/88. The current lot was created by ANR subdivision on an approved plan dated 7 November 1986. A Certified Plot Plan dated 9 August 2006 by Middlesex Survey shows the house 29.68 feet from the rear lot line.

Mr. Shields stated that the petitioners wished to construct a three season room the sides of which will be primarily glass with aluminum trim and the roof of similar materials as the main house. The petitioners intend to place the three season room on the deck on the Southern corner of the house. The existing deck will be shortened along the SW side to align with the 9'-6" three season room extension. The room will extend along the SE wall for nine feet to end at a deck of approximately six feet. This extension will be approximately 8'5" off the house and result in a rear setback of 21.22 feet.

The Chair asked whether anyone in attendance desired to speak in support of the requested relief. No-one in the audience responded.

The Chair then asked whether anyone wished to speak opposition. No-one in the audience responded.

Planner, Lara Curtis then reviewed the comments and recommendations of the Planning Board:

The Planning Board is supportive of the addition of the three-season room on the existing side/rear deck. The design of the proposed three-season room is consistent with the appearance and character of the existing structure and the surrounding neighborhood. The construction of the proposed addition and deck will result in a slight increase in side and rear yard setbacks, which will result in an increased buffer to adjacent properties to the west and south of the property. The applicant has also indicated they are willing to provide counterbalancing measures, in the form of landscaping. Therefore, the Planning Board voted unanimously to recommend approval of the plans titled "Certified Plot Plan, Proposed Addition in Brookline, MA" prepared by "Middlesex Survey Inc. Land Surveyors" dated August 9, 2006 and those titled "52 Ackers Ave." prepared by "Northshore Window and Siding; Remodeling Contractor", subject to the following conditions:

1. *Prior to obtaining a building permit, a final landscaping plan shall be submitted to the Assistant Planning Director for review and approval.*
2. *Prior to obtaining a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan showing dimensions stamped and signed by a registered architect or land surveyor as provided already, and 2) evidence that the Board of Appeals decision has been submitted to the Registry of Deeds.*

Section 5.70 – Rear Yard Setback

Section 5.43 – Exceptions to Yard and Setback Regulations

	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Finding</u>
Rear Yard Setback	30 feet	20.72 feet	21.22 feet	Special Permit* / Variance

* A special permit under Section 5.43 to waive dimensional requirements may be granted provided that counterbalancing amenities are provided.

The Chair called on Frank Hitchcock representing the Building Department. Mr. Hitchcock stated that the relief required to accommodate an addition to the house would fall under **Section 5.43**. He further stated that the relief requested would not exacerbate the situation since the three season room would be built atop the existing deck structure. He stated that the Building Department had no objections to the proposal, the relief required or the conditions recommended by the Planning Board.

The Chair then asked Mr. Shields if he wished to make a closing statement and he stated that the petitioners would be providing additional landscaping in connection with the project as a counter balancing amenity.

The Board, having deliberated on this matter and having considered the foregoing testimony, concluded that it is desirable to grant relief under **Section 5.43** and makes the following findings pursuant to **Section 9.05** of the zoning by-law:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

Since a variance was granted for the construction of the home in 1986 no relief in the form of a variance is required. Accordingly, the Board voted unanimously to grant relief subject to the following conditions:

Prior to obtaining a building permit, a final landscaping plan shall be submitted to the Assistant Planning Director for review and approval.

Prior to obtaining a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan showing dimensions stamped and signed by a registered architect or land surveyor as provided already, and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of
The Board of Appeals


Filing Date:

A True Copy:



Diane R. Gordon

ATTEST



Patrick J. Ward
Clerk, Board of Appeals